IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Criminal Revision No. 610 of 2004(O&M)
Date of Decision: February 02,2010

Balkar Singh @ Kala .....Petitioner

Versus

State of Haryana and others .....Respondents

Coram: Hon'ble Mrs. Justice Sabina

Present: Mrs.Kiran Bala Jain, Advocate for the petitioner.
Mr.H.S.Benniwal, Deputy Advocate General, Haryana
Mrs. Kamla Malik,Advocate for the respondents No.2 and 3

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Sabina, J.

Petitioner was convicted for an offence under Section 279/337/ 304-A of the Indian Penal Code (`IPC' for short) vide judgment dated 14.10.2003 by the Judicial Magistrate Ist Class, Ambala Cantt. Vide order of even date, petitioner was sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.500/- under Section 279 IPC;to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.300/- under Section 337 IPC and to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.700/- under Section 304-A IPC. In default of payment of fine, the

convict was directed to further undergo rigorous imprisonment for a period of three months for the commission of aforesaid offence. All the sentences were ordered to run concurrently. Aggrieved by the same, petitioner preferred an appeal and the same was dismissed by the Sessions Judge,Ambala vide order dated 1.3.2004. However, the sentence of rigorous imprisonment of two years awarded under Section 304-A IPC was reduced to rigorous imprisonment for one year,whereas, all the other sentences were ordered to remain intact. Hence, the present revision petition by the petitioner-Balkar Singh @ Kala.

The brief facts of the case, as noticed by the Appellate Court in paras 2 and 3 of its judgment, are as under:-

> "2. The facts leading to the case are that on the morning of 11.11.1994 Subhash Chander complainant after dropping his relatives at Bus Stand, Ugala, was returning to his Village Kasola Kalan on his motor cycle and when he had gone one kilometer ahead of Village Ugala, he noticed his nephews Ranbir singh and Munish going to school on a cycle which was being driven by Ranbir Singh. Munish was seated on the carrier of the cycle. A truck No.HR07A/2301 driven by Balkar Singh appellant (hereinafter referred to as the accused) was following them. The truck was being driven rashly and negligently. With the view of the complainant, the truck struck behind the cycle as a result of which Ranbir Singh fell on the western side in the `kacha' portion and Munish fell on the road on the eastern side. The truck crossed over Munish who died at the spot. Ranbir Singh also suffered injuries and his leg was broken. In the meantime, Mewa Singh

and Shiv Ram also reached the spot. The truck driver after parking his truck at a short distance from the place of accident fled the spot. Ranbir Singh was removed from the place of accident for his treatment to Civil Hospital, Shahbad. Leaving the dead body in the custody of Shiv Ram and Mewa Singh, the complainant was going to the police station but he came across H.C.Birkha Ram near Village Adhoi where the complainant made his statement Ex.PA leading to the registration of FIR Ex.PA/1.

The investigation was conducted by HC Birkha Ram who prepared rough site plan of the place of accident, took into possession the cycle and the truck through separate recovery memos. The accused was arrested in this case on 14.11.1994 when his driving licence was taken into possession. The post-mortem examination was got conducted on the dead body of Munish. Ranbir Singh was got medically examined. After completion of the investigation, the accused was challaned by the police.

3.Learned trial Court on the basis of report u/s 173 Cr.P.C. framed charge against the accused u/ss 279/337/304 IPC. The accused pleaded not guilty to the charge."

Learned counsel for the petitioner has submitted that now with the intervention of the relatives and friends, parties have effected a compromise. Learned counsel for the petitioner, during the course of arguments, has not challenged the conviction of the petitioner under Sections 279/337/ 304-A IPC but has submitted that the sentence qua imprisonment be reduced to already undergone by the petitioner .

Learned counsel for respondents No. 2 and 3 has not controverted the submissions made by the learned counsel for the petitioner and has submitted that the said respondents have no objection if the sentence qua imprisonment of the petitioner is reduced to already undergone by him.

Hence, the conviction of the petitioner under Sections 279 / 337/304-A IPC is maintained. However, the sentence qua the imprisonment of the petitioner is reduced to already undergone by him. Fine has already been deposited by the petitioner.

Petition stands disposed of accordingly.

(Sabina)
Judge

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